

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

JOHNNIE ROBERT CAPERS,

Case No. 13-CV-1041 (PJS/JJG)

Plaintiff,

v.

ORDER

RAMSEY COUNTY PUBLIC DEFENDER
and CHRISTOPHER SEEHUETTER, Saint
Paul Police Officer,

Defendants.

Johnnie Robert Capers, pro se.

Alethea M. Huyser, MINNESOTA ATTORNEY GENERAL'S OFFICE, for defendant
Ramsey County Public Defender.

Plaintiff Johnnie Capers brings claims under 42 U.S.C. § 1983 and the United States Constitution against the Ramsey County Public Defender ("Public Defender") and Christopher Seehuetter, a deceased St. Paul police officer. This matter is before the Court on Capers's objection to the January 15, 2014 Report and Recommendation ("R&R") of Magistrate Judge Jeanne J. Graham. Judge Graham recommends dismissing all claims against Officer Seehuetter under 28 U.S.C. § 1915(e)(2)(B)(ii) and granting the Public Defender's motion to dismiss. The Court has conducted a de novo review. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Based on that review, the Court adopts the R&R.

The Court agrees with Judge Graham that the Eleventh Amendment bars Capers's § 1983 and constitutional claims against the Public Defender and that Capers has not pleaded any facts to support the official-capacity claims that he asserts against Officer Seehuetter. In his objection, Capers does not identify any error in Judge Graham's analysis. Instead, Capers mostly refers to

claims — in particular, claims under 42 U.S.C. § 1985 and 42 U.S.C. § 2000d-7 — that are included in a *second* amended complaint that he submitted with his objection and that he seeks leave to file. That pleading is not properly before the Court, however. *See* Fed. R. Civ.

P. 15(a)(2).¹

The Court therefore adopts the R&R. But because, as noted, Capers has recently filed a motion to amend his complaint, the Court will not enter judgment at this time in order to permit consideration of Capers's motion.

ORDER

Based on the foregoing, and on all of the files, records, and proceedings herein, the Court ADOPTS the R&R [ECF No. 24]. Accordingly, IT IS HEREBY ORDERED THAT:

1. Defendant Ramsey County Public Defender's motion to dismiss [ECF No. 13] is GRANTED and plaintiffs' Sixth Amendment, Fourteenth Amendment, and 42 U.S.C. § 1983 claims against the Ramsey County Public Defender are DISMISSED WITH PREJUDICE.
2. Plaintiff's Fourth Amendment and 42 U.S.C. § 1983 claims against defendant Richard Seehuetter in his official capacity are DISMISSED WITH PREJUDICE pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii).

Dated: March 18, 2014

s/Patrick J. Schiltz
Patrick J. Schiltz
United States District Judge

¹Capers seems to suggest that he pleaded § 1985 and § 2000d-7 claims in the *first* amended complaint that is properly before the Court, but he plainly did not.